

## PATENT COOPERATION TREATY

PCT

## NOTIFICATION OF ELECTION

(PCT Rule 61.2)

From the INTERNATIONAL BUREAU

Commissioner  
 US Department of Commerce  
 United States Patent and Trademark  
 Office, PCT  
 2011 South Clark Place Room  
 CP2 5C24  
 Arlington, VA 22202  
 ETATS-UNIS D'AMERIQUE  
 in its capacity as elected Office

<b>Date of mailing</b> (day month year) 24 July 2001 (24.07.01)	
<b>International application No.</b> PCT/US00/24143	<b>Applicant's or agent's file reference</b> 102019-101
<b>International filing date</b> (day month year) 01 September 2000 (01.09.00)	<b>Priority date</b> (day month year) 03 September 1999 (03.09.99)
<b>Applicant</b> BALLARD, Stephen, G.	

1. The designated Office is hereby notified of its election made:

☒ in the demand filed with the International Preliminary Examining Authority on:

02 April 2001 (02.04.01)

☐ in a notice effecting later election filed with the International Bureau on:2. The election ☒ was☐ was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

The International Bureau of WIPO  
 34, chemin des Colombettes  
 1211 Geneva 20, Switzerland

Authorized Signature

Zakaria EL KHODARY

Form PCT/IB 33 (July 1992)

Form PCT/IB 33 (July 1992)

US 2414

# PATENT COOPERATION TREATY

## PCT

### NOTIFICATION OF TRANSMITTAL OF INTERNATIONAL PRELIMINARY EXAMINATION REPORT

10 NOV 2001

Applicant's or agent's file reference

File No. 10-101

#### IMPORTANT NOTIFICATION

Applicant

AMERICAN INTER-METALLICS INC.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report, but not of any annexes, and will transmit such translation to those Offices.
4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts: filing translations and paying national fees, within 30 months from the priority date, or later in some Offices (Article 39(1)). See also the reminders sent by the International Bureau with Form PCT/IB 301.

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of the entire text of the international application, including the claims. Thus, if applicants are unable to prepare and submit a translation in the language of the Office, they should

## INTERNATIONAL SEARCH REPORT

International application No.  
PCT/US00/24143

## A. CLASSIFICATION OF SUBJECT MATTER

IPC(7) : B01J 19/08

US CL : 422/186.04; 204/164; 75/346, 10.21, 10.23

According to International Patent Classification (IPC) or to both national classification and IPC

## B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 422/186.04; 204/164; 75/346, 10.21, 10.23

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

WEST

## C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y	US 5,885,321 A (HIGA et al.) 23 March 1999, see abstract.	34-36 and 48
Y	US 5,935,461 A ( WITHERSPOON et al.) 10 August 1999, see abstract.	34-36 and 48

☐ Further documents are listed in the continuation of Box C. ☐ See patent family annex.

* Special categories of cited documents:	*T* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
*A* document defining the general state of the art which is not considered to be of particular relevance	*X* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
*B* earlier document published on or after the international filing date	*Y* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
*L* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)	*Z* document member of the same patent family
*O* document referring to an oral disclosure, use, exhibition or other means	
*P* document published prior to the international filing date but later than the priority date claimed	

Date of the actual completion of the international search

27 NOVEMBER 2000

Date of mailing of the international search report

20 DEC 2000

Name and mailing address of the ISA/US  
Commissioner of Patents and Trademarks  
Box PCT  
Washington, D.C. 20231

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WO 01/17671 A1



NL, PT, SE), OAPI patent (BF, BJ, CF, CG, CI, CM, GA, GN, GW, ML, MR, NE, SN, TD, TG).

*For two-letter codes and other abbreviations, refer to the "Guidance Notes on Codes and Abbreviations" appearing at the beginning of each regular issue of the PCT Gazette.*

**Published:**

*With international search report*

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY EXAMINATION REPORT

Form PCT/ISAE/1997

FOR FURTHER ACTION

Applicant's name (as in the application)

Applicant's address (as in the application)

Applicant's agent

Applicant's representative

Applicant's representative

Applicant's representative

International Patent Classification (IPC) or national classification and IPC

IPC 7: B01J 10/08 and US Cl. 422 186 04, 204 161, 75 349, 10 21, 10 23

Applicant

UNITED STATES INTERNATIONAL PATENT

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 35.

2. This REPORT consists of a total of 4 sheets.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing modifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 10 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of report with regard to novelty, inventive step or industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

## I. Basis of the report

With regard to the elements marked as follows:

☒ 1.

pages \_\_\_\_\_  
 pages \_\_\_\_\_  
 pages \_\_\_\_\_

is originally filed  
 filed with the demand

☒ 2.

pages \_\_\_\_\_  
 pages \_\_\_\_\_  
 pages \_\_\_\_\_  
 pages \_\_\_\_\_

\_\_\_\_\_ as amended (together with any statements under Article 19  
 filed with the demand  
 filed with the letter of \_\_\_\_\_

☒ 3.

pages \_\_\_\_\_  
 pages \_\_\_\_\_  
 pages \_\_\_\_\_

\_\_\_\_\_ is originally filed  
 \_\_\_\_\_ filed with the demand  
 \_\_\_\_\_ filed with the letter of \_\_\_\_\_

☒ 4.

pages \_\_\_\_\_  
 pages \_\_\_\_\_  
 pages \_\_\_\_\_

\_\_\_\_\_ as originally filed  
 \_\_\_\_\_ filed with the demand  
 \_\_\_\_\_ filed with the letter of \_\_\_\_\_

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.  
 These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is

☐

the language of a translation furnished for the purposes of international search under Rule 23.1(b)

☐

the language of the original text of the international application under Rule 23.1(a)

☐

the language of the translation furnished for the purposes of international preliminary examination under Rules 55.2 and 55.3

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing \_\_\_\_\_

☐

contained in the international application as filed

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\_\_\_\_\_ as amended (together with any statements under Article 19)

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\_\_\_\_\_ as amended (together with any statements under Article 19)

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement:

Novelty (A.1)	Claims 1-15	YES
	Claims 16-18	NO
Inventive Step (A.2)	Claims 1-15	YES
	Claims 16-18	NO
Industrial Applicability (A.3)	Claims 1-15	YES
	Claims 16-18	NO

2. Citations and explanations (Rule 70.5)

1. Claims 16-18 and 18 lack novelty step under PCT Article 35(2) as being disclosed in HIGA et al. (US 2001/0059416). HIGA's invention is directed to preparation of fine aluminum powders by solution methods. HIGA discloses in the abstract that the fine aluminum powders are of the type of air-atomized powders. HIGA and the cited prior art are directed to the preparation of the powders. Because the claims are drafted in a "product-by-process" format, it is well settled that the determination of the patentability of a "product-by-process" claim is based on the product itself and the product is unpatentable if it appears to be the same as, or substantially the same as, prior art products which were prepared in a different manner.

2. Claims 16-18 and 18 lack an inventive step under PCT Article 35(2) as being disclosed in WITHERSPOON et al. (US 2001/0059416). WITHERSPOON'S invention is directed to pulsed high energy synthesis of fine powders. WITHERSPOON discloses in the abstract that the fine powders are of the type of air-atomized powders. WITHERSPOON and the cited prior art are directed to the preparation of the powders. Because the claims are drafted in a "product-by-process" format, the difference is not apparent and it is well settled that the determination of the patentability of a "product-by-process" claim is based on the product itself and the product is unpatentable if it appears to be the same as, or substantially the same as, prior art products which were prepared in a different manner.

Claims 16-18 and 17-18 lack the criteria set forth in PCT Article 35(2) as being disclosed in the prior art. The cited prior art suggest in an apparatus for the production of powder from a wire, a process thereof all the features of the claimed invention.

3. The cited prior art does not disclose the criteria set forth in PCT Article 35(2) as being disclosed in the prior art. The cited prior art suggest in an apparatus for the production of powder from a wire, a process thereof all the features of the claimed invention.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

1-1-75-111

VIII. General observations on the country and population

The country is a small island state with a population of approximately 100,000. The population is concentrated in the capital city and the surrounding area.

The country is a member of the United Nations and the Commonwealth of Independent States.